MINUTES

HEALTH SERVICES AND DEVELOPMENT AGENCY

MAY 25, 2005 MEETING

AGENCY MEMBERS PRESENT

Gene Caldwell, M.D., Chairman
Carl Koella, III, Vice Chair
Bryan Atchley
Charles Handorf, M.D.
Gregory Lammert
Peggy Troy
David Collier, M.D., designee for the TennCare Director
Paula Flowers, Commissioner of Commerce and Insurance
Faye Weaver, designee for the Comptroller of the Treasury

AGENCY STAFF PRESENT

Melanie Hill, Executive Director
Mark Farber, Assistant Executive Director
Reid Brogden, General Counsel
Jim Christoffersen, Deputy General Counsel
Rhonda Blair, Office Manager
Melissa Bobbitt, Administrative Services Assistant II
Pam Holliman, Administrative Assistant I
Jeff Grimm, Health Planner III
Phil Wells, Health Planner III

GUESTS PRESENT

Alix Cross, Esq., Harwell, Howard, Hyne, Gabbert & Manner Baker, E. Graham, Esq., Weeks, Anderson, & Baker Barker, Terry, River Street Architecture Barnett, Phillip, VP Operations, Middle Tennessee Medical Center Bayne, Fred, Home Health Care of West TN Blount, Steve, M.D., CFO, Millennium MRI Bowman, Joe, CFO, Stonecrest Medical Center Brent, Michael, D., Esq., Boult, Cummings, Conners & Berry, LLC Brown, Dere, NHC Carter, James E., Memphis (Shelby Co.) Pediatric Group Cinnamon, Jay, M.D., Millennium MRI Climer, Rebecca, VP, St. Thomas Health Services Cobble, Emlyn, VP, Parkwest Medical Center Corritore, Danell, Department of Health Davis, James, M.D., United Chiropractic/TCA Dobbins, Brian R., Regional Medical Center @ Memphis Downy, Philavery, Minister, Affinity - Hospice of Life Duncan, Bruce, NHC Edwards, Monica, Esq., Americane Specialty Hospital Elrod, Dan H., Esq., Miller & Martin Flood, John, President, No Place Like Home Flood, Mary L., R.N., No Place Like Home Fultz, James, UT Cancer Institute Gintzig, Donald, CEO, Middle Tennessee Medical Center Glenn, Michael, President, HomeChoice Health Services Gooch, Warren L., Esq., Kramer, Rayson, Leake, Rodgers & Morgan Grace, Frank, Jr. Esq., Waller, Lansden, Dortch & Davis Hampton, Mike, Americare Specialty Hospital Heatherly, Neil, CEO, Stonecrest Medical Center Heisser, Randy, M.D., Affinity – Hospice of Life Herrod, Henry G., University of Tennessee Health Science Center Holder, Robert, Vice President, Affinity – Hospice of Life Houchin, Barbara, Director Strategic Planning, St. Thomas Health Services Ireland, Glenn, No Place Like Home

Jahanzeb, Mohammad, M.D., UT Cancer Institute

Johnston, Ben, CEO, Hospice of Chattanooga, Inc.

Looney, Kim H., Esq., Waller, Lansden, Dortch & Davis

Marshall, John, Horizon Medical Center

McCord, David, M.D., Millennium MRI

McDearman, Scott, Esq., Grant, Kovvalinke & Harrrison, P.C.

Megison, D. Phillip, M.D., Neurosurgical Group of Chattanooga

Miller, Thomas, M.D., Chattanooga Pain Center ASC

Morgan, Angela, Director Maternity Services, Stonecrest Medical Center

Morrow, Thomas, UT Cancer Institute

Noll, Douglas, Administrator, Spine Surgery Assoc.

Porter, Anita, R. N., Volunteer Home Care

Prescott, Tina, Administrator, Camden General Hospital

Puri, Chris, THCA

Reisz, Cinda, Esq., Bass, Berry & Sims

Richardson, Mike, VP, Covenant Health

Rosenthal, Phillip, M.D., Neurological Surgery Assoc.

Ross, Kathy, Gibson General Hospital

Ross, Stephen, M.D., Genesis Women's Care

Scruggs, Sherry, Administrator, Gibson General Hospital

Sizemore, Trina, R. N.

Strait, Timothy A., M.D., Neurosurgical Group of Chattanooga

Swindell, Terry, Controller, Gibson General Hospital

Sydow, Phil, CEO, UT Cancer Institute

Taylor, Jerry W., Esq., Farris, Mathews, Branan, Bobango, Hellen & Dunlap

Townes, Paul., Life Care at Home of TN

Trail, Lisa, Director of Public Affairs, Middle Tennessee Medical Center

Trauger, Byron, Esq., Trauger, Ney & Tuke

Treece, Susan, Consultant, The Anesis Group

Ulmer, Carlton, COO, Parkridge Medical Center

Walton, Frank, COO, Horizon Medical Center

Wellborn, John L., Development Support Group

West William H., Esq., Baker, Donelson, Bearman, Caldwell, & Berkowitz

Williams, Jim, M.D., Gibson General Hospital

Wood, H. Lee, Administrator, Neurosurgical Group of Chattanooga

Yunus, Futhan, M.D., UTCI

Chairman Caldwell called the meeting to order at 8:30 a.m. in the Main Auditorium of the Bell South Tower, Nashville, Tennessee.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements.

Commissioner Flowers was absent for presentation of the following application.

CONSENT CALENDAR

Melanie Hill summarized the following Consent Calendar application:

Paris Manor Nursing Center - (Paris, Henry County) - Project No. CN0503-017

The increase in the project cost and size of the replacement facility previously approved by Certificate of Need CN0311-096A. The project will be located on the previously approved site. The square footage will be increased from 41,500 square feet to 59,999 square feet. Project cost will increase \$2,574,528.00 from \$5,063,000 to \$7,637,528. Project Cost \$2,574,527.68.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency.

Mr. Koella moved for approval of the project based on: 1) Need – The need was made clear in the previously approved application CN0311-096A; 2) Economic Feasibility – The project is economically feasible with commercial

loan and cash reserves being available; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Collier, Caldwell

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON applications:

Ms. Troy and Dr. Handorf recused.

AmeriCare Specialty Hospital of Memphis - (Memphis, Shelby County) - Project No. CN0411-104

The establishment of a twenty (20) bed freestanding psychiatric acute geriatric hospital to be licensed by the Department of Mental Health/Development Disabilities. Project Cost \$1,000,000.00.

Michael Hampton, CEO and Monica Edwards, General Counsel for AmeriCare spoke on behalf of the project.

Ms. Weaver moved for approval of the project based on: 1) Need – The need was established in the application. The facility will be licensed by the Department of Mental Health and Developmental Disabilities; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION:** There will be a reduction in licensed beds from twenty (20) beds to sixteen (16) to meet the classification requirement as an institution with mental health disease, as requested by the applicant. Mr. Lammert seconded the motion. The motion CARRIED [6-0-0]. **APPROVED**

AYE: Atchley, Weaver, Koella, Lammert, Collier, Caldwell

NAY: None

Ms. Troy and Dr. Handorf recused.

No Place Like Home, Inc. - (Memphis, Shelby County) - Project No. CN0412-112

The establishment of a home care organization providing home health services in Shelby, Fayette, Haywood, Hardeman, Tipton, Lauderdale, Madison, Crockett, Dyer and Obion Counties. Project Cost \$111,000.00.

Frank Grace, Jr., Esq. representing the applicant addressed the Agency. John A. Flood, President, Trina Sizemore, R.N., Mary Lynn Flood, R.N., Brian R. Dobbins, Director of Regional Medical Center and James E. Carter, M.D., spoke on behalf of the project.

The following opposed: Scott McDearman, Esq., representing CareAll Home Health Care, Inc.; Susan Treece, The Anesis Group; Michael Glenn, Home Choice Health Service; Glenn Ireland, HouseCall; Fred Bayne, Home Health Care of West Tennessee; Anita Porter, Volunteer HomeCare, Inc.; and Alix Cross, Esq., representing Housecall Medical Resourses.

Mr. Grace rebutted.

Mr. Koella moved for approval of the project based on: 1) Need – The need to provide home health services to pediatric patients in Shelby, Fayette and Tipton counties has been demonstrated; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION:** Limited to pediatric patients or patients once served as pediatric patients by No Place Like Home, Inc. (age 21 years and under) in Shelby, Fayette and Tipton counties. Mr. Atchley seconded the motion. The motion CARRIED [5-1-0]. **APPROVED**

AYE: Atchley, Weaver, Koella, Collier, Caldwell

NAY: Lammert

Commissioner Flowers arrived.

Gibson General Hospital - (Trenton, Gibson County) - Project No. CN0502-006

The initiation of swing beds services and conversion of ten (10) existing acute care beds to swing beds. The one hundred (100) licensed bed total will remain unchanged. Project Cost \$9,541.00. * These beds are subject to the 125-bed nursing home pool.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Jim Williams, M.D., Sherry Scruggs, Administrator, Kathy Ross and Terry Swindell, Controller spoke on behalf of the project.

Mr. Atchley moved for approval of the project based on: 1) Need – The existing hospital acute care beds will be converted to swing beds which allows the patients requiring nursing home care for a short period to remain in one facility. 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care by allowing convenience to the patient by remaining in one facility. Commissioner Flowers seconded the motion. The motion CARRIED [8-1-0]. **APPROVED**

AYE: Atchley, Handorf, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: Weaver

Camden General Hospital, Inc. - (Camden, Benton County) - Project No. CN0502-007

The initiation of swing bed services and conversion of ten (10) existing skilled nursing beds to ten (10) swing beds. The skilled nursing unit will be delicensed and closed. The hospital's licensed bed capacity will increase from eighty-three (83) to ninety-three (93) beds. Project Cost \$9,541.00. * These beds are not subject to the 125-bed nursing home pool.

Dan Elrod, Esq., representing the applicant, addressed the Agency. Terry Swindell, Controller, Tina Prescott, Administrator, and Kathy Ross, spoke on behalf of the project.

Dr. Handorf moved for approval of the project based on: 1) Need – The need has been demonstrated; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Commissioner Flowers seconded the motion. The motion CARRIED [8-1-0]. **APPROVED**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Flowers, Collier,

NAY: Caldwell

<u>Life Care at Home of Tennessee d/b/a Affinity-Hospice of Life - (Chattanooga, Hamilton County) - Project No. CN0502-008</u>

The establishment of a home care organization providing hospice services. The service area will include Hamilton, Polk, Bradley, Marion, Bledsoe, McMinn, Meigs, Rhea, Grundy and Sequatchie counties. Life Care at Home of Tennessee also operates an existing home health organization providing home health services in these same counties. Project Cost \$50,000.00.

William H. West, Esq., representing the applicant, addressed the Agency. Paul Townes, Life Care, Robert Holder, Affinity-Hospice of Life, Randy Heisser, M.D., and Philavery L. Downey, Minister, spoke on behalf of the project.

Opposing the project were: Dan Elrod, Esq., representing Caris HealthCare; Alix Coulter Cross, Esq., representing Adventa Hospice; Ben Johnston, CEO, Hospice of Chattanooga, Inc.; Glenn Ireland, Adventa; and Thomas P. Miller, M.D.

Mr. West rebutted.

Mr. Lammert moved for denial of the project based on: 1) Need – The need has not been conclusively proven; 2) Economic Feasibility – The project is not economically feasible based on projections; and 3) The project does not contribute to the orderly development of adequate and effective health care with the existing Hospice providers in that area being sufficient. Dr. Handorf seconded the motion. The motion CARRIED [9-0-0]. **DENIED**

AYE: Atchley, Weaver, Handorf, Koella, Lammert, Troy, Flowers, Collier, Caldwell
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NAY: None

Stonecrest Medical Center - (Smyrna, Rutherford County) - Project No. CN0502-012

The addition of twenty-six (26) general acute care hospital beds on the fourth floor, and remodeling on the second floor. This project will incease the licensed bed complement from seventy-five (75) beds to one hundred and one (101) beds. Project Cost \$4,452,997.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Neil Heatherly, CEO, and Stephen J. Ross, M.D., spoke on behalf of the project. John Wellborn, Consultant, Joe Bowman, CFO, Rebecca Climer, VP, and Angela Morgan, Director Maternity Services, were present in support.

Opposing the project were: Dan Elrod, Esq., representing Middle Tennessee Medical Center ("MTMC"); Lisa Trail, Director of Public Affairs, MTMC; Phillip Barnett, VP Operations, MTMC; Barbara Houchin, Director of Strategic Planning, St. Thomas Health Services; and Donald Gintzig, CEO, Middle Tennessee Medical Center.

Mr. Taylor rebutted.

Dr. Handorf moved for approval of the project based on: 1) Need – The need is evident by the growing population in Rutherford County and therefore there will be a need for more health care facilities in the coming years; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Commissioner Flowers seconded the motion. The motion CARRIED [8-1-0]. **APPROVED**

AYE: Atchley, Handorf, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: Weaver

Dr. Handorf left meeting.

Tennessee Valley Diagnostic Center - (Chattanooga, Hamilton County) - Project No. CN0502-010

The establishment of an outpatient diagnostic center (ODC) with magnetic resonance imaging (MRI), and the initiation of outpatient MRI services. The facility will be licensed as a freestanding ODC managed by Parkridge Medical Center, Inc. Project Cost \$3,465,757.00.

Jerry W. Taylor, Esq., representing the applicant, addressed the Agency. Carlton Ulmer, COO, Parkridge Medical Center spoke on behalf of the project. John Wellborn, Consultant, was present.

Mr. Koella moved for approval of the project based on: 1) Need – The need is demonstrated by the MRI at Parkridge Medical Center being utilized over the capacity numbers; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Atchley seconded the motion. The motion CARRIED [8-0-0]. APPROVED

AYE: Atchley, Weaver, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: None

Horizon Medical Center - (Dickson, Dickson County) - Project No. CN0502-009

A change of site for the previously approved, but unimplemented, CN0301-004A for the acquisition of a linear accelerator and the initiation of outpatient radiation therapy services. This project will be relocated from the campus of Horizon Medical Center to the east side of Hwy. 46 by Interstate 40, Exit 172. Project Cost \$7,166,871.00.

Speaking on behalf of the project were Frank Walton, COO, and John Marshall, CEO. John Wellborn, Consultant was present.

Ms. Troy moved for approval of the project based on: 1) Need – The need has been demonstrated; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION:** Surrender of

Mr. Koella seconded the motion. The motion

AYE: Atchley, Weaver, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: None

Horizon Outpatient Imaging Center - (Dickson, Dickson County) - Project No. CN0502-011

The establishment of an outpatient diagnostic center (ODC), the acquisition of magnetic resonance imaging (MRI) and computerized tomography (CT) scanners, and the initiation of MRI services. This is a change of site and ownership for previously approved Certificate of Need CN0205-037A. Project Cost \$7,277,147.00.

Speaking on behalf of the project were Frank Walton, COO, and John Marshall, CEO. John Wellborn, Consultant was present.

Ms. Troy moved for approval of the project based on: 1) Need – The need has been established; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. **CONDITION:** Surrender of unimplemented Certificate of Need No. CN0205-037A. Ms. Weaver seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Atchley, Weaver, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: None

Millennium MRI, LLC - (Nashville, Davidson County) - Project No. CN0502-013

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services limited to the practice of David McCord, M.D. The project includes the acquisition of a stand up MRI to be shared with Premier Stand Up MRI, LLC (CN0502-014). Project Cost \$592,025.00.

Kim Harvey Looney, Esq., representing the applicant, addressed the Agency. David McCord, M.D., and Jay Cinnamon, M.D., spoke on behalf of the project. Steve Blount, M.D., and James Davis, M.D., were present in support of the project.

Graham Baker, Esq., representing MedQuest, Inc. d/b/a BioImaging, opposed.

Ms. Looney rebutted.

<u>Motion #1</u> – Mr. Lammert moved for denial of the project based on: 1) Need – The need is not conclusively identified by the applicant; 2) Economic Feasibility – The project is questionable concerning economic feasibility and cash reserves; and 3) The project does not contribute to the orderly development of adequate and effective health care. Commissioner Flowers seconded the motion. The motion FAILED [3-5-0].

AYE: Lammert, Troy, Flowers

NAY: Atchley, Weaver, Koella, Collier, Caldwell

<u>Motion #2</u> — Mr. Atchley moved for approval of the project based on: 1) Need — The need has been demonstrated; 2) Economic Feasibility - The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Koella seconded the motion. The motion FAILED [4-4-0] **DENIED**

AYE: Atchley, Weaver, Koella, Collier,

NAY: Lammert, Troy, Flowers, Caldwell

Mr. Lammert commented for denial of the project: The need has not been demonstrated; economic feasibility is questionable; and the project does not contribute to orderly development.

Premier Open Stand Up MRI, LLC - (Nashville, Davidson County) - Project No. CN0502-014

The establishment of an outpatient diagnostic center (ODC) and the initiation of magnetic resonance imaging (MRI) services. The project includes the acquisition of a stand up MRI to be shared with Millennium MRI, LLC (CN0502-013). Project Cost \$1,771,050.92.

Graham Baker, Esq., representing MedQuest, Inc. d/b/a BioImaging, opposed.

Ms. Looney rebutted.

Mr. Atchley moved for approval of the project based on: 1) Need – The need has been established; 2) Economic Feasibility – The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Koella seconded the motion. The motion CARRIED [5-3-0]. **APPROVED**

AYE: Atchley, Weaver, Koella, Collier, Caldwell

NAY: Lammert, Troy, Flowers

Millennium MRI, LLC - (Nashville, Davidson County) - Project No. CN0502-013

Commissioner Flowers motioned to reconsider the denial of Millennium MRI, LLC Project No. CN0502-013. Mr. Atchley seconded. The motion CARRIED by voice vote [8-0-0]

Mr. Atchley moved for approval of the project based on: 1) Need – The need has been established; 2) Economic Feasibility - The project is economically feasible and cash reserves are available; and 3) The project does contribute to the orderly development of adequate and effective health care. Mr. Koella seconded the motion. The motion CARRIED [5-3-0] **APPROVED**

AYE: Atchley, Weaver, Koella, Collier, Caldwell

NAY: Lammert, Troy, Flowers

GENERAL COUNSEL'S REPORT

Reid Brogden summarized the following modification requests:

Ms. Troy recused.

InteCardia-Tennessee East Diagnostic, LLC - (Memphis, Shelby County) - Project No. CN0011-112A

Modification of Certificate of Need to lift condition limiting positron emission tomography (PET) services to cardiac patients.

Kim Harvey Looney, Esq., and Dwight Clark, Cardiologist representing the applicant, addressed the Agency. Futhan Yunus, UTCI, James Fultz, UTCI, and Cindy Reisz, Esq., spoke on behalf of the request. Henry Herrod, University of Tennessee Health, Mohammad Jahanzeb, UTCI, Phil Sydow, University of Tennessee Cancer Institute, and Thomas Morrow were present in support of the project.

Opposing the request were: Jerry W. Taylor, Esq., representing The West Clinic and Dan Elrod, Esq., representing Baptist Memorial.

Ms. Looney and Ms. Reisz rebutted

Mr. Koella moved for denial of the request for modification. The request as presented should go through the Certificate of Need application process. Mr. Lammert seconded the motion. The motion CARRIED [6-1-0]. **DENIED**

AYE: Atchley, Koella, Lammert, Flowers, Collier, Caldwell

NAY: Weaver

Fort Sanders Parkwest Medical Center - (Knoxville, Knox County) - Project No. CN0106-034A

Request for a fifteen (15) month extension of the expiration date of November 1, 2005 to February 1, 2007. This project was approved September 26, 2001 for the addition of a patient tower, renovations of existing space and the addition of a cardiac catheterization laboratory.

Emlyn Cobble, Vice President/Chief Support Officer, and Mike Richardson, VP, Covenant Health, spoke on behalf of the request.

Mr. Koella moved for approval of the request for extension of the expiration date of November 1, 2005 to February 1, 2007. Commissioner Flowers seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Atchley, Weaver, Koella, Lammert, Troy, Flowers, Collier, Caldwell

NAY: None

Neuro Spine ASC - (Chattanooga, Hamilton County) - Project No. CN0412-111A

Request to clarify and modify condition related to CN0412-111A. The original Certificate of Need was approved March 23, 2005, for the establishment of an ambulatory surgical treatment center (ASTC) limited to the performance of spine surgery procedures of a lesser acuity, with two (2) operating rooms and one (1) procedure room. The request is to add diagnostic and therapeutic injections for disorders/diseases related to the spine and spinal cord, with such therapies being adjunctive therapies to the surgical procedures already approved. Documentation for the inclusion of these procedures was included in the original application. This request does not include pain management.

Douglas Noll, Administrator, Terry Barker, Architect, and Phillip Megison, M.D., spoke on behalf of the request. Timothy Strait, M.D. and H. Lee Wood, Administrator, were present in support of the project.

Jerry W. Taylor, Esq., representing Chattanooga Pain Management Center, opposed.

Mr. Koella moved for denial as the request as presented should go through the Certificate of Need application process. Mr. Atchley seconded the motion. The motion CARRIED [6-2-0]. **DENIED**

AYE: Atchley, Koella, Lammert, Flowers, Collier, Caldwell

NAY: Weaver, Troy

OTHER BUSINESS

Lasik Centers

Mr. Koella moved to defer until June 22, 2005 meeting. Mr. Atchley seconded the motion. Motion CARRIED by voice vote [8-0-0] **DEFERRED**

AYE: Atchley, Weaver, Koella, Lammert, Troy Flowers, Collier, Caldwell

NAY: None

CURRENT REPORTS

Statistical Reports

The reports were accepted into the record.

Finance, Ways and Means Committee Reports

The reports were accepted into the record.

Minutes

The minutes of the April 27, 2005, meeting were accepted by unanimous voice vote.

ADJOURNMENT

There being no further business, the meeting adjourned.

Melanie M. Hill, Executive Director
MMH/pjh